

State of South Dakota

SEVENTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2001

456E0005

HOUSE BILL NO. 1001

Introduced by: Representatives Hennies (Thomas), Clark, Kooistra, Sebert, and Smidt and
Senators Koskan, Hainje, Staggers, and Volesky at the request of the
Interim Taxation Committee

1 FOR AN ACT ENTITLED, An Act to revise certain sales and use tax provisions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 10-45-2.2 be amended to read as follows:

4 10-45-2.2. No tax increase ~~imposed after March 9, 1984,~~ may be levied on materials
5 incorporated in construction work pursuant to construction contracts bid or entered into on or
6 before the effective date of the tax increase.

7 Section 2. That § 10-45-10.3 be amended to read as follows:

8 10-45-10.3. There is exempted from the provisions of this chapter and from the computation
9 of the tax imposed by it, freeport merchandise and stocks of merchandise ~~as defined in section~~
10 ~~39-1-102(15), C.R.S., as amended and in effect on January 1, 1988,~~ brought as foreign
11 merchandise into a foreign trade zone. For the purposes of this section, stocks of merchandise
12 is personal property which is held primarily for sale and not subject to annual depreciation.

13 Section 3. That § 10-45-11 be amended to read as follows:

14 10-45-11. There are specifically exempted from the provisions of this chapter and from the

1 computation of the amount of tax imposed by it, gross receipts from the sale of gasoline, motor
2 fuel, and special fuel subject to tax under ~~chapters 10-47A and 50-4~~ chapter 10-47B.

3 Section 4. That § 10-45-12.1 be amended to read as follows:

4 10-45-12.1. The following services enumerated in the Standard Industrial Classification
5 Manual, 1987, as prepared by the Statistical Policy Division of the Office of Management and
6 Budget, Office of the President are exempt from the provisions of this chapter: health services
7 (major group 80); educational services (major group 82) except schools and educational services
8 not elsewhere classified (industry no. 8299); social services (major group 83); agricultural
9 services (major group 07) except veterinarian services (group no. 074) and animal specialty
10 services, except veterinary (industry no. 0752); forestry services (group no. 085); radio and
11 television broadcasting (group no. 483); railroad transportation (major group 40); local and
12 suburban passenger transportation (group no. 411) except limousine services; school buses
13 (group no. 415); farm product warehousing and storage (industry no. 4221); establishments
14 primarily engaged in transportation on rivers and canals (group no. 444); establishments primarily
15 engaged in air transportation, certified carriers (group no. 451); establishments primarily engaged
16 in air transportation, noncertified carriers (group no. 452) except chartered flights (industry no.
17 4522) and airplane, helicopter, balloon, dirigible, and blimp rides for amusement or sightseeing;
18 pipe lines, except natural gas (major group 46); arrangement of passenger transportation (group
19 no. 472); arrangement of transportation of freight and cargo (group no. 473); rental of railroad
20 cars (group no. 474); water supply (industry no. 4941); sewerage systems (industry no. 4952);
21 security brokers, dealers and flotation companies (group no. 621); commodity contracts brokers
22 and dealers (group no. 622); credit counseling services provided by individual and family social
23 services (~~group~~ industry no. 8322); construction services (division C) except industry no. 1752
24 and locksmiths and locksmith shops; consumer credit reporting agencies, mercantile reporting

1 agencies, and adjustment and collection agencies (group no. 732), if the debt was incurred
2 out-of-state and the client does not reside within the state. The following are also specifically
3 exempt from the provisions of this chapter: financial services of institutions subject to tax under
4 chapter 10-43 including loan origination fees, late payment charges, nonsufficient fund check
5 charges, stop payment charges, safe deposit box rent, exchange charges, commission on travelers
6 checks, charges for administration of trusts, interest charges, and points charged on loans;
7 commissions earned or service fees paid by an insurance company to an agent or representative
8 for the sale of a policy; services of brokers and agents licensed under Title 47; the sale of trading
9 stamps; rentals of motor vehicles as defined by § 32-5-1 leased under a single contract for more
10 than twenty-eight days; advertising services; services provided by any corporation to another
11 corporation which is centrally assessed having identical ownership and services provided by any
12 corporation to a wholly owned subsidiary which is centrally assessed; continuing education
13 programs; tutoring; vocational counseling, except rehabilitation counseling; and motion picture
14 rentals to a commercially operated theater primarily engaged in the exhibition of motion pictures;
15 and charges made by a telecommunications company for the origination, transmission, switching,
16 reception, or termination of an interstate telephone or telegraph communication.

17 Section 5. That § 10-45-52 be amended to read as follows:

18 10-45-52. All taxes and license fees collected by the secretary of revenue ~~under §§ 10-45-2~~
19 ~~to 10-45-8, inclusive, pursuant to this chapter,~~ shall immediately be turned over to the state
20 treasurer and ~~by him~~ credited to the state general fund, except as otherwise provided.

21 Section 6. That § 10-45-62 be amended to read as follows:

22 10-45-62. ~~Large vessels~~ Any large boat as defined by ~~§ 10-60-15 with or without an~~
23 ~~accompanying motor are~~ § 32-3A-2 is hereby exempted from sales tax if subject to the tax
24 imposed by ~~§ 10-60-1~~ § 32-3A-50.

Section 7. That § 10-46-2 be amended to read as follows:

10-46-2. An excise tax is hereby imposed on the privilege of the use, storage, and consumption in this state of tangible personal property purchased ~~on or after July 1, 1939~~, for use in this state at the same rate of percent of the purchase price of said property as is imposed by ~~§§ 10-45-2 and 10-45-3 or amendment which may hereafter be made thereto~~ pursuant to chapter 10-45.

Section 8. That § 10-46-5.2 be amended to read as follows:

10-46-5.2. No tax increase ~~imposed after March 9, 1984~~, may be levied on materials incorporated in construction work pursuant to construction contracts bid or entered into on or before the effective date of the tax increase.

Section 9. That § 10-46-15.2 be amended to read as follows:

10-46-15.2. There are hereby specifically exempted from the tax imposed by this chapter the gross receipts resulting from authorize purchases made with food stamps under the provision of the Food Stamp Act of 1977 (P.L. 95-113), codified at 7 U.S.C. § 2012(g), as amended through January 1, 2001.

Section 10. That § 10-46-17.4 be amended to read as follows:

10-46-17.4. There is exempted from the provisions of this chapter and from the computation of the tax imposed by it, freeport merchandise and stocks of merchandise ~~as defined in section 39-1-102(15), C.R.S., as amended and in effect on January 1, 1988~~, brought as foreign merchandise into a foreign trade zone. For the purposes of this section, stocks of merchandise is personal property which is held primarily for sale and not subject to annual depreciation.

Section 11. That § 10-46-17.5 be amended to read as follows:

10-46-17.5. The use in this state of insecticides, herbicides, pesticides, rodenticides, and fumigants to be used exclusively for agricultural purposes is specifically exempted from the tax

1 imposed by this chapter. The tax imposed by this chapter on endoparasitocides and
2 ectoparasitocides shall ~~remain in effect until July 1, 1996~~ be deposited in the veterinary student
3 tuition and animal disease research and diagnostic laboratory fund to be used for veterinary
4 student tuition grants and the operations and activities conducted by the State Animal Disease
5 Research and Diagnostic Laboratory established in § 13-58-13.

6 Section 12. That § 10-46-31 be amended to read as follows:

7 10-46-31. ~~Where~~ If tangible personal property is sold under a conditional sales contract, or
8 under any other form of sale wherein the payment of the principal sum, or a part thereof, is
9 extended over a period longer than sixty days from the date of the sale thereof, the retailer may
10 collect and remit for each month that portion of the tax equal to the rate of tax as provided for
11 in §§ ~~10-46-2 to 10-46-5, inclusive;~~ this chapter of that portion of the purchase price actually
12 received during such month.

13 Section 13. That § 10-46-39 be amended to read as follows:

14 10-46-39. The secretary of revenue shall enforce and administer this chapter in the same
15 manner and subject to all of the provisions contained in chapter 10-45. Sections 10-45-22,
16 10-45-29, 10-45-30, and 10-45-37 to ~~10-45-47~~ 10-45-45, inclusive, are by reference
17 incorporated as part of this chapter.

18 Section 14. That § 10-46-49 be repealed.

19 ~~10-46-49. This chapter is known and may be cited as the "Use Tax Act of 1939."~~

20 Section 15. That § 10-46-51 be amended to read as follows:

21 10-46-51. ~~Large vessels~~ Any large boat as defined by § ~~10-60-15~~ with or without an
22 accompanying motor ~~are~~ § 32-3A-2 is hereby exempted from the tax imposed by this chapter if
23 subject to the tax imposed by § ~~10-60-1~~ § 32-3A-50.

24 Section 16. That § 10-46-61 be repealed.

1 ~~10-46-61. There are exempted from the provisions of this chapter and the tax imposed by it,~~
2 ~~the use of transportation services associated with timber sale contracts entered into prior to~~
3 ~~July 1, 1996, provided such contract has a duration of one year or less.~~

4 Section 17. That § 10-52-2.7 be amended to read as follows:

5 10-52-2.7. No tax increase ~~imposed after March 9, 1984,~~ may be levied on materials
6 incorporated in construction work pursuant to construction contracts bid or entered into on or
7 before the effective date of the tax increase.

8 Section 18. That § 10-52-6 be repealed.

9 ~~10-52-6. If any provision of this chapter is declared unconstitutional or the applicability~~
10 ~~thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the~~
11 ~~chapter and applicability thereof to other persons or circumstances shall not be affected thereby.~~

12 Section 19. That § 10-52-7 be repealed.

13 ~~10-52-7. This chapter may be cited as the "Uniform Municipal Non-Ad Valorem Tax Law."~~